

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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I.S., a minor by and through her mother and  
next friend, ANAIS DISLA; J.B., a minor by  
and through her parents and next friends,  
IBELYH DISLA and JOSE BRISTOL; I.M.,  
a minor by and through her mother and next friend,  
ZULAYKA MCKINSTRY; A.S., a  
minor by and through her mother and next  
friend, CHANDERLIA SILVA,

Plaintiffs,

v.

BINGHAMTON CITY SCHOOL DISTRICT;  
BINGHAMTON BOARD OF EDUCATION; TIM  
SIMONDS, in his individual and official capacity;  
MICHELLE RALEIGH, in her individual and  
official capacity; MARY ELLEN EGGLESTON, in  
her individual and official capacity,

Defendants.

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Civil No. 3:19-cv-513-GTS-ATB  
Hon. Glenn T. Suddaby

**DECLARATION OF CARA MCCLELLAN IN SUPPORT OF PLAINTIFFS' MOTION  
FOR RECONSIDERATION**

CARA MCCLELLAN, under penalty of perjury, declares as follows:

1. I am admitted to practice in the courts of New York State and before this Court. I am an Assistant Counsel at the NAACP Legal Defense and Educational Fund, Inc., and counsel for the Plaintiffs in the above-captioned action. I submit this declaration in support of Plaintiffs' motion for reconsideration of this Court's September 14, 2020 decision and order, ECF No. 117, denying Defendants' motion to dismiss the fourth and fifth causes of action of Plaintiffs' Complaint for lack of subject-matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) and granting in part and

denying in part Defendants' motion for judgment on the pleadings with respect to the second, third, fourth, and fifth causes of action and part of the first cause of action pursuant to Fed. R. Civ. P. 12(c).

2. I make this declaration on personal knowledge and on the basis of information and documents obtained from Plaintiffs in the course of this litigation.

3. In its decision and order, the Court granted that Defendants' motion to dismiss Plaintiff A.S.'s Fourth Amendment claims premised on a strip search with respect to all Defendants. ECF No. 117 at 26, 47.

4. As relevant here, the Court's decision stated that, with the exception of her shoes, A.S. did not remove clothing. *Id.* at 24.

5. In the Complaint, Plaintiffs pleaded that A.S. unzipped her top, exposing her bra and chest. Compl. ¶ 20, ECF 60 at 2, 8.

6. In the attached motion, Plaintiffs move for reconsideration in light of the Court's failure to address this key fact in its analysis.

Dated: September 28, 2020

  
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CARA MCCLELLAN

**CERTIFICATE OF SERVICE**

I certify that on September 28, 2020, I filed the foregoing Declaration of Cara McClellan in Support of Plaintiffs' Motion for Reconsideration electronically via the Court's CM/ECF system, which will send a copy to all counsel of record.

/s/ Amanda Gayer

Amanda Gayer